

Questions for the Record for Ambassador Robert E. Lighthizer
U.S. House Ways and Means Committee
Hearing on U.S.-China Trade
February 27, 2019

From Representative Jason Smith to Ambassador Robert E. Lighthizer

1. Small manufacturers are critical economic engines and employers in rural communities. However, these manufacturers often don't have the time or resources to participate in the complex product exclusion process. When USTR establishes a product exclusion process for List 3, as directed by Congress, would you be willing to consider preferences for manufacturers in rural communities that would help expedite consideration of their requests?

Answer: My office has made considerable efforts to facilitate the access of small businesses to the product exclusion process. Those efforts include the following:

- **Single Point of Contact and Technical Support:** We designated a single Section 301 hotline to take inquiries from the public. USTR trade specialists staff the hotline during businesses hours and respond to all voicemail messages within 24 hours. We provide a full spectrum of technical services to the public, including helping interested persons submit their exclusion requests to the docket via [Regulations.gov](https://www.regulations.gov), answering questions about the products subject to the additional tariffs, and making referrals to other government agencies on collateral issues. We receive, on average, 20 to 25 calls per day from interested persons. Furthermore, we have worked individually with requesters (mostly small businesses) to correct deficiencies in approximately 1,700 requests.
- **Collaboration with the Small Business Administration (SBA):** We have worked extensively with the SBA throughout the Section 301 investigation, including on the product exclusion process. For example, we assisted the SBA Office of International Trade on publishing a primer on the recent tariff actions: <https://www.sba.gov/blogs/what-small-businesses-should-know-about-tariffs>. We also conducted an agency-wide product exclusion process briefing to SBA district officers from the field offices and briefed state and local level trade officials. At the request of SBA, USTR also created Frequently-Asked-Questions to address small business concerns. Furthermore, we have advised SBA on additional resources for small business counselors.
- **Notice and Dissemination of Information:** We conducted an extensive notice and comment process throughout the investigation that included four public hearings, more than 500 witnesses, and approximately 10,000 comments. In addition, we created information papers and a searchable database to facilitate public access to information regarding the products and requests. We published the information and tools on a designated Section 301 investigation page: <https://ustr.gov/issue-areas/enforcement/section-301-investigations>.

- **Simplified Form:** We created a two page simplified form to makes it easier for small businesses to submit requests for exclusions.

USTR developed the exclusion processes for Lists 1 and 2 with extensive input from both Congress and other federal agencies. We look forward to continue to work closely with the Committee on any future exclusion processes for List 3.

2. While market access for U.S. agriculture products is critically important, farmers and producers have other concerns as well. I recently visited a farm in southeast Missouri where I was able to get some hands-on experience with the growing importance of drone technology for farmers. This family has thousands of acres of farmland and thanks to drone technology, the can very easily monitor their crops and address problems before they effect yields. Technologies like drones, cell phones and computers are all very important to modern farming. If an agreement is not reached soon, what assurances can you provide that these most basic technology products will not face tariffs?

Answer: The goal of the Section 301 investigation is to change China's unfair and market-distorting behavior. China should have responded to the findings in the Section 301 investigation and the U.S. tariff actions by undertaking the necessary economic and policy reforms needed to end its trade-distortive practices. It is critical that the United States ensure that American intellectual property and technology are protected. USTR is continuing to negotiate with the Chinese in an attempt to resolve these issues.

3. China continues to restrict access to its markets for the U.S. film industry, making it difficult for U.S. companies to do business. I am pleased that you and President Trump have been tough on China in order to get them to play fair and open their markets for American businesses like the film industry. One area I would urge them to continue to focus on is making sure that those industries are treated consistent with international norms. Can you confirm that this is a priority for the Administration?

Answer: In a 2012 Memorandum of Understanding (MOU) relating to theatrical films, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO dispute that the United States won. Among other things, China agreed in the MOU to raise the share of box office revenue received by U.S. film producers. The MOU also provided that it would be reviewed in calendar year 2017 in order for the two sides to discuss issues of concern, including further meaningful compensation for the U.S. side in terms of, among other things, the U.S. film producers' share of box revenue. In 2017, in accordance with the terms of the MOU, the two sides began discussions regarding the provision of further meaningful compensation to the United States. It is a priority for the United States to ensure that, as part of the negotiations launched by Presidents Trump and Xi on December 1, 2018, China fulfills its MOU obligations, including by allowing U.S. film producers to realize a share of box office revenue consistent with market rates around the world.

4. In relation to Canada, despite strong concerns from the U.S. insurance industry and the Canadian insurance industry, I understand that Canada's financial regulator is moving forward with plans to severely restrict cross-border reinsurance trade in a way that will make it very difficult for U.S. insurers to do business in Canada. Is that something you are aware of an engaged on?

Answer: The Administration is aware of concerns with respect to actions that Canada may be taking involving reinsurance that could negatively impact U.S. reinsurers' ability to do business in Canada. We expect Canada to be mindful of its trade commitments as it undertakes revisions to its policies with respect to supply of reinsurance. We look forward to staying in touch with Members of Congress on this issue.

5. When China joined the WTO, it committed to open its electronic payment services (EPS) market by 2006. A 2012 WTO dispute settlement panel confirmed that commitment. However, as you stated in your 2018 Report to Congress On China's WTO Compliance, "[t]oday, the reality remains that no foreign [EPS] companies conduct business in China's domestic market." (See p. 2 of the report). You also stated (at p. 8 of the report) that, "China's industrial policy objective is to protect its national champion, China Union Pay [CUP], from competition in China so that it can use the revenues from a captive domestic market to fund its own global expansion." At the same time, we give CUP full access to the U.S. market. As you note (at pp. 40-41 of the report), "China Union Pay reportedly has reached 100 percent penetration at U.S. automated teller machines and between 80 and 90 percent penetration at U.S. stores that accept credit cards." This is unfair. China has gotten away for far too long with false promises that it will comply with its commitments. As recently as 2017, as part of the 100-Day Action Plan of the U.S.-China Comprehensive Economic Dialogue, China promised to put in place procedures that would lead to U.S. EPS supplier getting "full and prompt market access." China has reneged on that promise.

Can you commit that you will be seeking a firm commitment from China—with specific, reasonable timeframes—to process license applications of U.S. EPS suppliers? How are you going to ensure that China lives up to its commitment to give U.S. EPS suppliers full and prompt market access?

Answer: The Administration is fully engaged on this issue and has been working closely with relevant stakeholders. It is a priority for this Administration that China complies with and implements its obligations, including its WTO obligations, in electronic payment services. We welcome the opportunity to stay in touch with Members of Congress on this important issue.